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11 FACEBOOK, INC.

12
13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION
16

17 FACEBOOK, INC., a Delaware
18 corporation,

19 Plaintiff,

20 v.

21 JEREMI FISHER; PHILIP POREMBSKI;
22 RYAN SHIMEALL; and JOHN DOES 1-
25, individuals; and CHOKO SYSTEMS
23 LLC; HARM, INC.; PP WEB SERVICES
24 LLC, iMEDIA ONLINE SERVICES LLC,
and JOHN DOES 26-50, corporations,

25 Defendants.

Case No. C 09-05842 JF

**[PROPOSED] ORDER GRANTING
PLAINTIFF FACEBOOK, INC.'S MOTION
FOR PRELIMINARY INJUNCTION**

26 THIS MATTER came before the Court for hearing on plaintiff Facebook, Inc.'s
27 ("Facebook") motion for a preliminary injunction against Defendants Philip Porembski,
28

1 Harm Inc., and PP Web Services LLC (collectively "Defendants"). Now, the Court having
2 considered Plaintiff's motion, the memorandum in support thereof, the declaration of Joseph P.
3 Cutler in support of the motion, the previously filed records and documents in this matter, other
4 evidence provided in support of the motion, and the arguments of counsel, the Court hereby finds:

- 5 1. The Court has jurisdiction over Defendants and the subject matter of this action.
- 6 2. Defendants received notice of the Motion for Preliminary Injunction.
- 7 3. Based on the facts set forth in Plaintiff Facebook's Memorandum in Support of
8 Preliminary Injunction, the declaration of Joseph P. Cutler in support thereof, and the previously
9 filed records and documents in this matter, Facebook has established a strong likelihood that it
10 will succeed on the merits of its claims. Furthermore, Facebook has established a likelihood that
11 it would have suffered irreparable harm or injury if this preliminary injunction were not issued,
12 that the balance of hardships tips strongly in favor of issuing an injunction, that Defendants will
13 suffer little or no hardship if enjoined from their allegedly illegal scheme, and that the public
14 interest in protecting the privacy and security of Facebook's online community which is used by
15 over 350 million members of the public weighs in favor of granting Facebook's requested relief.
- 16 4. The other Defendants in this action have stipulated to entry of a permanent
17 injunction enjoining them from the same activities as included in this preliminary injunction.
- 18 5. A preliminary injunction against Defendants is necessary for the pendency of this
19 matter.

20 Now, therefore, it is hereby ORDERED as follows:

- 21 1. Defendants Philip Porembski, Harm Inc., and PP Web Services LLC, and all of
22 their officers, agents, servants, employees and attorneys, and persons in active concert or
23 participation with them who receive actual notice of this order are hereby enjoined from:
 - 24 a. Initiating or procuring transmission of unsolicited commercial electronic
25 messages ("spam") on or through Facebook's computers, Facebook's
26 website, Facebook's networks, or to Facebook users;
 - 27 b. Accessing or attempting to access Facebook's website, networks, data,
28 information, user information, profiles, computers, or computer systems;

- 1 c. Soliciting, requesting, or taking any action to induce Facebook users to
2 provide identifying information or representing that such solicitation,
3 request, or action is being done with Facebook's authorization or approval;
4 d. Retaining any copies, electronic or otherwise, of any Facebook
5 information, including user login information or passwords, obtained
6 through illegitimate or unlawful actions;
7 e. Engaging in any activity that alters, damages, deletes, destroys, disrupts,
8 diminishes the quality of, interferes with the performance of, or impairs the
9 functionality of Facebook's computers, computer system computer
10 network, data, website, or services;
11 f. Engaging in any unlawful activities alleged in this action;
12 g. Entering or accessing the physical premises or facilities of Facebook or its
13 counsel; or
14 h. Engaging in any activity that violates, or encourages, induces or facilitates
15 violations of the Statement of Rights and Responsibilities, attached as
16 Exhibit A to the Complaint in this action.

17 3. This Preliminary Injunction shall take effect immediately and shall remain in
18 effect during the pendency of this matter.

19 5. Facebook previously filed proof of bond in the amount of \$5,000 on December 24,
20 2009. The bond shall serve as security for all claims with respect to this Preliminary Injunction.

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24 IT IS SO ORDERED.

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26 Dated: _____, 2010

The Honorable Jeremy Fogel
United States District Judge

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Presented by:

PERKINS COIE LLP

By s/ Brian Hennessy
Brian Hennessy

Attorneys for Plaintiff Facebook, Inc.

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CERTIFICATE OF SERVICE

I certify that on January 4, 2010, I sent the foregoing [PROPOSED] ORDER GRANTING PLAINTIFF FACEBOOK, INC.'S MOTION FOR PRELIMINARY INJUNCTION, which was filed with the Clerk of the Court using the CM/ECF system, via U.S. Mail and electronic mail to the following Defendants:

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Ryan Shimeall
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I certify under penalty of perjury that the foregoing is true and correct.

DATED this 4th day of January 2010.


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